

October 3, 2007 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

08AN0103

R. E. Deans, Jr.

Bermuda Magisterial District
2010 Swift Bluff Drive

REQUEST: A Special Exception to permit the keeping of six (6) adult dogs in a Manufactured or Mobile Home Subdivision (MH-2) District.

RECOMMENDATION

Recommend denial of this Special Exception for the following reasons:

- A. The proposed use may be likely to have an adverse effect on the health, safety or welfare of persons residing in this neighborhood or on adjacent property.
- B. The keeping of six (6) dogs is incompatible with the permitted uses in this Manufactured or Mobile Home Subdivision (MH-2) District.
- C. There are no conditions that will be adequate to address the negative impacts that keeping six (6) dogs on the subject property will have on this Manufactured or Mobile Home Subdivision (MH-2) District.

GENERAL INFORMATION

Location:

Property is known as 2010 Swift Bluff Drive. Tax ID 802-629-9066.

Existing Zoning:

MH-2

Size:

0.2 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - MH-2; Residential

South - MH-2; Residential

East - I-3; Vacant

West - MH-2; Residential

Utilities:

Public water and sewer

General Plan:

(Southern Jefferson Davis Corridor)

(Community Commercial/mixed use
corridor)

DISCUSSION

The applicant requests a Special Exception to permit the keeping of six (6) dogs in a Manufactured or Mobile Home Subdivision (MH-2) District. This use is classified by the Zoning Ordinance as a private kennel. The Ordinance defines a private kennel as “A place where three or more dogs, more than four months old, are kept for private use.”

The applicant provides the following information in support of this request:

The six (6) dogs are all family pets and are UKC registered American Bully’s. They are also show dogs. Animal control has never received a call about them. They are very well socialized and the community knows our dogs quite well. They are walked on leashes and are not considered dangerous to anyone. They are also cared for very well.

Planning Department staff visited the site in response to a complaint. Staff’s inspection revealed that the applicant was in violation of the Zoning Ordinance by keeping more than two (2) adult dogs (private kennel) in a Manufactured or Mobile Home Subdivision (MH-2) District. This request is in response to staff’s investigation and determination that this property was in violation of the Zoning Ordinance.

Staff notes that this property consists of 0.2 acre and is zoned Manufactured or Mobile Home Subdivision (MH-2) District. Staff's field inspection, relative to this request, revealed that this property is located in the Millside Subdivision. There are manufactured or mobile homes located on property to the north, south and west of the subject property. The property located to the east is zoned Heavy Industrial (I-3) and is unimproved. Staff's field inspection also revealed a six (6) foot tall solid board privacy fence around the perimeter of the rear yard. Also, staff notes that inside this solid board privacy fence there are three (3), ten (10) by ten (10) feet chain link enclosures (kennels), six (6) feet in height, which are being used for the dogs.

Further, staff notes that the Zoning Ordinance restricts the applicant from boarding or breeding dogs or for keeping them for other purposes for commercial gain. If the applicants were considering boarding, breeding, or using the dogs for other purposes for commercial gain, an approved Conditional Use would be required for a commercial kennel.

This request may have an adverse effect on the character of the area and may adversely affect the welfare of the persons residing in the area because the noise produced by six (6) dogs may create a nuisance. Staff notes that a 0.2 acre lot is not large enough to accommodate six (6) dogs because of the proximity of adjacent dwellings; therefore, this proposed use (private kennel) is not compatible with uses that are permitted in a Manufactured or Mobile Home Subdivision (MH-2) District which is intended for single-family manufactured or mobile homes.

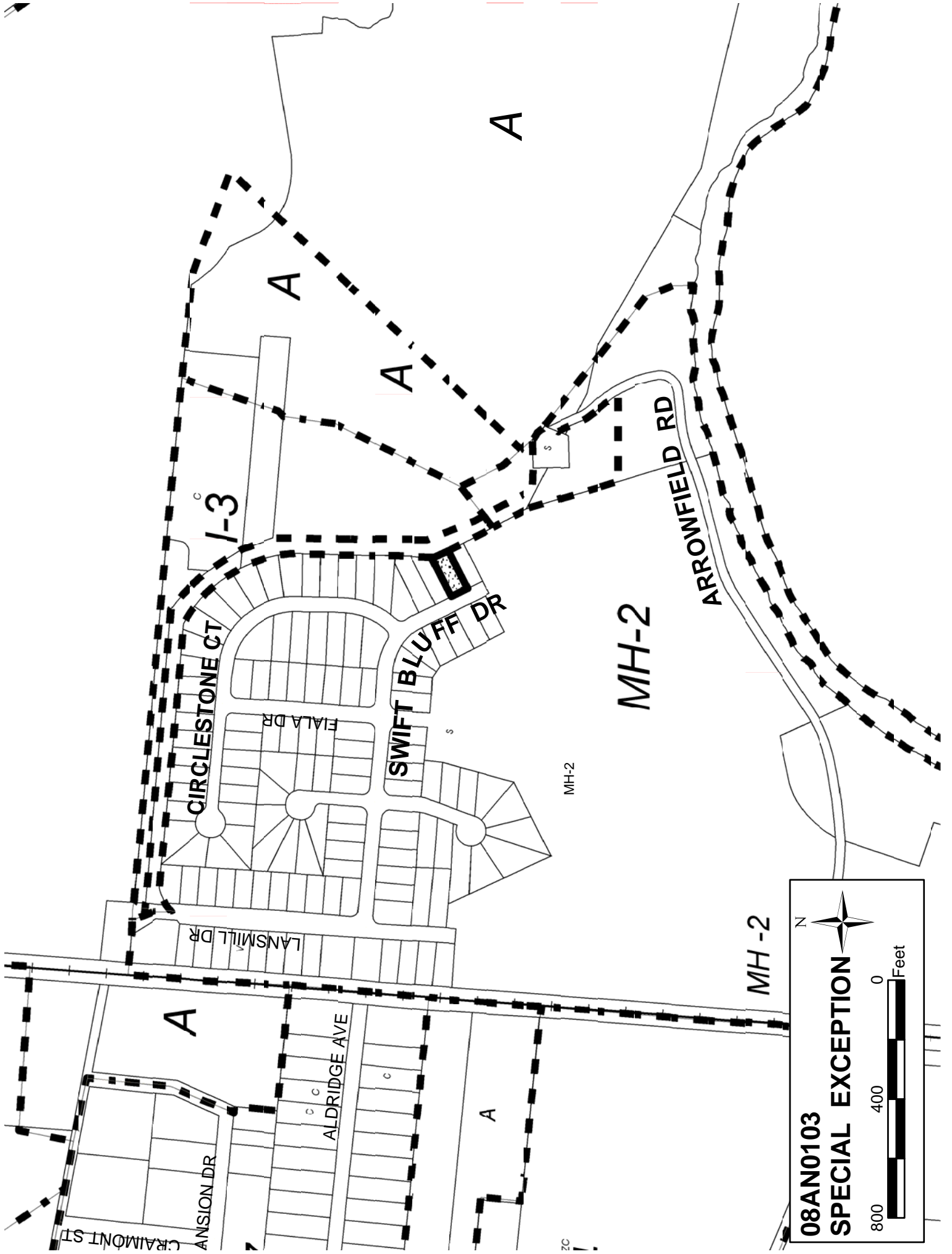
The imposing of conditions will not mitigate the negative impact that this use may have on this well established Manufactured or Mobile home neighborhood. Although the yard is adequately maintained and the dogs are confined in the house and within a fence in the rear yard, the number of dogs may be a nuisance or a safety issue to adjacent and area properties. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

CONDITIONS

1. Special Exception shall be granted to and for R. E. Deans, Jr., exclusively, and shall not be transferable nor run with the land. (P)
2. Special Exception shall be granted for a period not to exceed two (2) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these six (6) dogs has not proved a detriment to the adjacent property or the area in general. (P)
3. When the American Bully's are outside the dwelling, they shall be confined to the three (3) ten (10) by (10) ten foot chain link fence enclosures (kennels) or on a leash in the rear yard. (P)

4. Should any of the dogs be given away, sold or pass away, it shall not be replaced. (P)
5. The applicant shall provide a history of each dog, such as age, sex, color and size as well as a photo to the Planning Department within thirty (30) days of approval of the Special Exception. (P)



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SPECIAL EXCEPTION

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